

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated: 16th day of June 1998

Before  
THE HON'BLE Mr. JUSTICE V.GOPALA GOWDA

WRIT PETITION No.12908/92

Between:

Vijaya Kumar,  
S/o.Madhava Rao,  
Working as Clerk/Supervisor  
on daily wages in the  
Office of the Agricultural  
Produce Market Committee,  
Bidar.

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...PETITIONER

(By Sri Vigneshwar S.Shastry)

And:

1. The State of Karnataka  
by its Secretary to the  
Co-operation Department,  
M.S.Building,  
Bangalore.
2. The Director of Agricultural  
Marketing in Karnataka,  
Raj Bhavan Road,  
Bangalore-1.
3. The Joint Director of  
Agricultural Marketing,  
Gulbarga Division,  
Gulbarga.
4. The Agricultural Produce  
Market Committee by its  
Secretary, Bidar. ...RESPONDENTS

(By Sri Smt.Bharathi Nagesh,  
A.G.A for R-3 to R-3,  
Sri R.S.Hegde for R-4)

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W.P is filed under Articles 226 & 227 of the Constitution of India praying to quash the Endorsement at Annexures G, H and J and to direct the respondents to reinstate the petitioner into service with all backwages and continuity of service and all consequential benefits.

This W.P coming on for hearing this day, the Court made the following:-

O R D E R

The petitioner is seeking to quash the endorsements at Annexures G, H and J by which he has been informed that since he has not satisfactorily fulfilled the conditions contained in the Government Order dated 6-8-1990 and 16-1-1992, he cannot be regularised and fix the monthly salary. The further prayer of the petitioner is to direct the respondents to reinstate him into service with all backwages, continuity of service and regularise him with all consequential benefits.

2. The petitioner was working continuously under the respondents from 27-4-1984 until he was terminated on 20-1-1990



on daily wages as Clerk-cum-Supervisor. The petitioner claims that his termination is contrary to law.

3. The respondents filed statement of objection contending that the petitioner is not entitled for regularisation as the petitioner was not continuing in service beyond 1-7-1984 till the Government Order dated 6-8-1990 and the writ petition is liable to be dismissed.

4. The Supreme Court in the case of DHARWAD DISTRICT P.W.D DAILY WAGE EMPLOYEES ASSOCIATION vs STATE OF KARNATAKA (A.I.R 1990 ~ SC 883) had granted interim order not to terminate the services of daily wage employees. The State Government had implemented the same by issuing Circular dated 12-9-1985<sup>✓</sup> to reinstate the daily wage employees who were terminated during the pendency of the aforesaid case. Contrary to the said order of the Supreme Court and the Circular, the petitioner had been terminated. In similar case in W.P.No.4169/89 this Court has held that the respondents are bound to

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consider the case of the petitioner in the light of the decision of the Supreme Court. Based on the said judgment, the 4th respondent requested the 2nd respondent to issue order for continuing the petitioner in service. Despite that, the impugned endorsements have been issued without taking into consideration the Circular at Annexure-A instructing not to terminate the daily wage employees and the Government Order dated 6-8-1990 and also the Supreme Court order. The case of the petitioner has not been considered properly by the authorities.

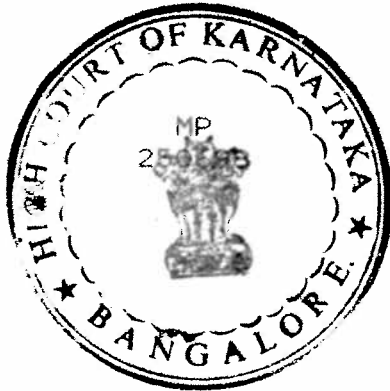
5. It is necessary to observe that the petitioner should not have been terminated in view of the aforesaid Circular and the interim order passed by the Supreme Court. Just three days prior to the decision rendered by the Supreme Court the <sup>✓</sup>services of the petitioner had been terminated, which ought not to have been done.

6. For the aforesaid reasons, this petition is allowed and the impugned Endorsements are quashed. The respondents are

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directed to consider the case of the petitioner for regularisation on the basis of <sup>✓</sup>interim order granted by the Apex Court in Dhulwad District P.N.D. Daily Wage Employees & the Circular, Government Order and the decision of the Supreme Court bearing in mind that the petitioner was in service from 27-4-1984 to 20-2-1990 and <sup>^</sup>if he is entitled for regularisation, to grant all consequential benefits.



Sd/-  
JUDGE